

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY OTTAWA IMMEDIATE

C O N F I D E N T I A L STATE 047137

E.O. 11652: GDS

TAGS: MILI, CA

SUBJECT: ARGENTIA "NORTH PROPERTIES"

REFERENCE: OTTAWA 7449

1. EMBASSY IS REQUESTED FORWARD THE REVISED "ANNEX C", AS QUOTED BELOW, TO EXTERNAL AFFAIRS (A. MATHEWSON, DEFENCE RELATIONS DIVISION) UNDER COVERING LETTER, AS FOLLOWS.
2. DETAILED LEGAL DESCRIPTION OF THE AREA TO BE SUB-LEASED (ANNEX A), AND AN UPDATED CHART (ANNEX B) HAVE BEENPOUCHED TO EMBASSY SEPARATELY. WHEN RECEIVED, THEY SHOULD BE FORWARDED TO EXTERNAL AFFAIRS.
3. AS INDICATED IN COVERING LETTER, ANNEXES D AND E ARE NO LONGER NECESSARY.
4. DRAFTS OF DIPLOMATIC NOTES TO BE EXCHANGED, SUBMITTED BY MATHEWSON LETTER, ARE ACCEPTABLE WITH DELETION OF REFER-CONFIDENTIAL

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ENCE TO ANNEXES D AND E.

5. COVERING LETTER: QUOTE I REFER TO YOUR LETTER OF JULY 1977, CONCERNING THE PROPOSED AGREEMENT REGARDING THE SUBLEASE AND COMMERCIAL DEVELOPMENT OF AN AREA OF THE UNITED

STATES NAVAL STATION, ARGENTIA, NEWFOUNDLAND WHICH IS SURPLUS TO THE CURRENT NEEDS OF THE UNITED STATES NAVY.

I AM PLEASED TO ADVISE YOU THAT MY AUTHORITIES CONCUR IN

THE MANNER IN WHICH YOU PROPOSE TO UPDATE THE ORIGINAL DRAFT AGREEMENT OF OCTOBER 1973 BY INCLUDING WITHIN THE ANNEXES ALL THE POINTS OF AGREEMENT REACHED ON AD HOC BASIS OVER THE PAST FOUR YEARS, AS WELL AS IN THE TEXT OF THE DRAFT EXCHANGE OF NOTES. IN THAT CONNECTION, WE BELIEVE THAT ONLY ANNEXES A, B AND C TO THE DRAFT EXCHANGE OF NOTES ARE STILL NECESSARY. ANNEX D IS NO LONGER REQUIRED SINCE THE EXISTING SECURITY FENCES ALONG THE FERRY ACCESS ROAD TO THE "NORTH PROPERTIES" IS SUFFICIENT. ANNEX E IS SIMILARLY UNNECESSARY SINCE NO FUEL STORAGE TANKS IN THE "NORTH PROPERTIES" WILL BE RETAINED FOR USE AND THE OTHER MATTERS THAT THE ANNEX WAS INTENDED TO ADDRESS CAN BE AND ARE PROVIDED FOR IN ANNEX C.

I AM ATTACHING FOR YOUR CONSIDERATION A REDRAFT OF YOUR PROPOSED ANNEX "C", WHICH ALSO ADDRESSES THE HEIGHT AND RESTRICTIONS ON BUILDINGS ADJACENT TO RUNWAYS. ANNEX "A" A DETAILED LEGAL DISCRIPTION OF THE AREAS TO BE SUB-LEASED, INCLUDING NEW AREAS DESCRIBED IN YOUR LETTER OF DECEMBER 7, 1976; ANNEX "B", "FAIR COPIES" OF A CHART WITH THE SUB-LEASED PROPERTIES AND WATERS OUTLINED WILL BE FORWARDED WITHIN A FEW DAYS, UPON RECEIPT FROM WASHINGTON.

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YOUR VIEWS AND ANY PROPOSED AMENDMENTS TO THE REVISED DRAFT AGREEMENT TEXT, ATTACHED, WILL BE APPRECIATED. UNQUOTE.

6. "ANNEX C": QUOTE HEREINAFTER, UNLESS THE CONTEXT OTHERWISE REQUIRES, "CANADA", MEANS THE GOVERNMENT OF CANADA, "UNITED STATES" MEANS THE GOVERNMENT OF THE UNITED STATES OF AMERICA, "HER MAJESTY" MEANS HER MAJESTY THE QUEEN IN RIGHT OF CANADA AND "THE MANAGEMENT AUTHORITY" MEANS THAT AUTHORITY DESIGNATED BY THE GOVERNMENT OF CANADA TO MANAGE, IN WHOLE OR IN PART, THE AREA SUBLET BY THIS AGREEMENT.

L. THE UNITED STATES AGREES TO AND DOES HEREBY SUBLEASE TO HER MAJESTY THAT PART OF THE AREA OF THE UNITED STATES NAVAL STATION, ARGENTIA, NEWFOUNDLAND DESCRIBED IN ANNEX "A" AND DEPICTED IN ANNEX "B" (HEREINAFTER CALLED THE "MANAGEMENT AREA") FOR THE PURPOSES OF THIS AGREEMENT, SUBJECT TO THE CONDITION THAT THE UNITED STATES MAY RESUME FULL AND EXCLUSIVE OCCUPANCY OF THE WHOLE OR SUCH PART THEREOF AS IT MAY REQUIRE, IMMEDIATELY IN THE EVENT OF WAR OR NATIONAL EMERGENCY, AND OTHERWISE AS MUTUALLY AGREED UPON. UPON SUCH RE-ENTRY, AND FOR SO LONG AS SUCH

RE-OCCUPANCY SHALL CONTINUE DURING THE TERM OF THE LEASE (HEREINAFTER CALLED "THE HEADLEASE") UNDER THE LEASED NAVAL AND AIR BASES AGREEMENT OF MARCH 27, 1941, AS AMENDED (HEREINAFTER CALLED THE 1941 AGREEMENT"), THE UNITED STATES SHALL HAVE ALL RIGHTS OF OWNERSHIP, INCLUDING RIGHTS OF

USE, ALTERATION AND REMOVAL, IN ANY AND ALL PERMANENT IMPROVEMENTS LOCATED WITHIN THE MANAGEMENT AREA OR SUCH PART THEREOF AS IT SHALL HAVE REOCCUPIED HEREUNDER.

2. THE UNITED STATES SHALL HAVE THE RIGHT, UPON REASONABLE NOTICE TO THE MANAGEMENT AUTHORITY, TO THE USE OF WHARVES IN THE MANAGEMENT AREA, FREE OF CHARGE, FOR THE LOADING AND UNLOADING, BY UNITED STATES NAVY PERSONNEL OR EMPLOYEES, OF SHIPS IN SUPPORT OF THE NAVAL STATION, TOGETHER WITH
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NECESSARY RIGHTS OF INGRESS AND EGRESS OVER THE MANAGEMENT AREA FOR SUCH PURPOSES.

3. IN THE EVENT THE UNITED STATES SHALL RE-ENTER AND RE-OCCUPY ALL OR ANY PART OF THE MANAGEMENT AREA PURSUANT TO PARAGRAPH 1 OF THIS ANNEX, AND FOR SO LONG AS SUCH RE-OCCUPANCY CONTINUES, THE PROVISIONS OF PARAGRAPH 2 OF THIS ANNEX SHALL NOT APPLY TO ANY WHARVES REOCCUPIED BUT THE PROVISIONS OF THE 1941 AGREEMENT SHALL APPLY THERETO FOR PURPOSES OF ALLOWING THE UNITED STATES THE UNIMPEDED USE OF SUCH WHARVES.

4. CANADA WILL FROM TIME TO TIME DESIGNATE TO THE UNITED STATES IN WRITING A MANAGEMENT AUTHORITY RESPONSIBLE IN FULL OR IN PART FOR THE ADMINISTRATION OF THE AGREEMENT AND HER MAJESTY'S SUBLEASE.

5. CANADA WILL TAKE ALL NECESSARY MEASURES TO ENSURE THAT ANY SUBLESSEE OF HER MAJESTY OF THE WHOLE OR ANY PART OF THE MANAGEMENT AREA DOES NOT INTERFERE WITH THE ACTIVITIES, INCLUDING COMMUNICATIONS, OF THE UNITED STATES AT THE UNITED STATES NAVAL STATION, ARGENTIA (HEREINAFTER CALLED THE "BASE"), OR WITH THE SECURITY OF THOSE ACTIVITIES. TO THIS LIMITED END, THE MANAGEMENT AUTHORITY WILL FORWARD ALL APPLICATIONS FOR SUBLEASES TO THE COMMANDING OFFICER OF THE BASE WHO WILL PROVIDE FINDINGS AND RECOMMENDATIONS TO THE MANAGEMENT AUTHORITY AS TO THE GRANTING OF EACH APPLICATION. A RECOMMENDATION THAT A SUBLEASE SHOULD NOT BE GRANTED ON THE GROUNDS OF SECURITY OR INTERFERENCE SHALL BE BINDING UPON CANADA. ANY SUBLEASE GRANTED WILL BE SUBJECT TO IMMEDIATE TERMINATION IN THE EVENT THAT THE SUBLESSEE, ITS AGENTS, EMPLOYEES, OR CONTRACTORS INTERFERE WITH THE ACTIVITIES, INCLUDING COMMUNICATIONS OF THE UNITED
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STATES AT THE BASE OR WITH THE SECURITY OF THOSE ACTIVITIES.

6. THE MANAGEMENT AUTHORITY MAY, AT ITS OWN EXPENSE, DURING THE TERM OF HER MAJESTY'S SUBLEASE ERECT OR CON-

STRUCT OR AUTHORIZE ERECTION OR THE CONSTRUCTION OF BUILDINGS AND OTHER IMPROVEMENTS WITHIN THE MANAGEMENT AREA. ANY BUILDINGS SO ERECTED OR CONSTRUCTED OR SO AUTHORIZED MAY BE REMOVED AT ITS OWN EXPENSE BY THE MANAGEMENT AUTHORITY AT ANY TIME DURING THE SAID TERM; PROVIDED, THAT ANY SUCH REMOVAL FROM ANY PORTION OF THE MANAGEMENT AREA REOCCUPIED BY THE UNITED STATES UNDER PARAGRAPH 1 OF THIS ANNEX SHALL BE SUBJECT TO THE PRIOR CONSENT OF THE COMMANDING OFFICER OF THE BASE AND ANY CONDITIONS THEREOF. NO NEW CONSTRUCTION OR MODIFICATION OF EXISTING STRUCTURES SHALL BE CARRIED OUT IN SUCH A WAY AS TO PRECLUDE THE USE OF THE AIRFIELD RUNWAY IN THE EVENT OF A DETERMINATION TO RE-ENTER UNDER PARAGRAPH 1 OF THIS ANNEX. NOR SHALL ANY STRUCTURE OR BUILDING BE ERECTED WHICH WOULD BE AN OBSTRUCTION TO AIR NAVIGATION AT A MILITARY AIRFIELD IN VIOLATION OF THE STANDARDS FOR DETERMINING SUCH OBSTRUCTIONS SET FORTH IN SUBPART C - "OBSTRUCTION STANDARDS," OF PART 77 OF THE REGULATIONS OF THE UNITED STATES FEDERAL AVIATION ADMINISTRATION (14 CODE OF FEDERAL REGULATIONS 77.21 TO 77.29), AS THE SAME SHALL BE AMENDED.

7. THIS AGREEMENT DOES NOT CREATE OR RECOGNIZE ANY LICENSES, EASEMENTS OR RIGHTS OF WAY OUTSIDE THE MANAGEMENT AREA WHICH ARE NOT EXPRESSLY STATED IN THIS AGREEMENT. LICENSES, EASEMENTS, OR OTHER ENCUMBERANCES OUTSIDE THE MANAGEMENT AREA MAY BE CREATED BY LOCAL AGREEMENT BETWEEN THE COMMANDING OFFICER OF THE BASE AND THE MANAGEMENT AUTHORITY. LOCAL AGREEMENTS RESPECTING UTILITIES, THE ELECTRICAL SYSTEM, FIRE PROTECTION AND OTHER SERVICES AND MATTERS RELATED OR INCIDENTAL THERETO MAY BE ENTERED INTO BETWEEN THE COMMANDING OFFICER OF THE BASE AND THE MANAGEMENT AUTHORITY. ALL SUCH LICENSES, EASEMENTS, RIGHTS OF WAY OR CONFIDENTIAL

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OTHER LOCAL AGREEMENTS OR ENCUMBERANCES SHALL BE SUBJECT TO SUCH TERMINATION OR MODIFICATION AS MAY BE REQUIRED INCIDENTAL TO THE EXERCISE BY THE UNITED STATES OF ITS RE-ENTRY RIGHTS UNDER PARAGRAPH 1 OF THIS ANNEX.

8. THE MANAGEMENT AUTHORITY WILL MAINTAIN THE SECURITY FENCE ALONG THE FERRY ACCESS ROAD IN A CONDITION SATISFACTORY TO THE COMMANDING OFFICER OF THE BASE. THE MANAGEMENT AUTHORITY WILL TAKE SUCH OTHER MEASURES AS THE COMMANDING OFFICER OF THE BASE DETERMINES ARE NECESSARY TO PREVENT UNAUTHORIZED ACCESS FROM THE MANAGEMENT AREA TO THAT PART OF THE BASE NOT WITHIN THE MANAGEMENT AREA.

9. CANADA WILL ACCEPT THE MANAGEMENT AREA AS IS, WILL

WAIVE ANY CAUSE OF ACTION THAT MIGHT OTHERWISE EXIST AGAINST THE UNITED STATES, ITS AGENTS, SERVANTS OR EMPLOYEES BY REASON OF ANY PATENT OR LATENT CONDITIONS

OF THE MANAGEMENT AREA, ANY PART THEREOF OR EQUIPMENT OR OBJECT THEREON; AND WILL INDEMNIFY AND HOLD HARMLESS THE UNITED STATES, ITS AGENTS, SERVANTS OR EMPLOYEES OR CONTRACTORS WITH RESPECT TO ANY CLAIMS OR LIABILITY THAT MAY ARISE OUT OF THE USE OF THE MANAGEMENT AREA BY HER MAJESTY, HER AGENTS, EMPLOYEES, SUBLESSEES, CONTRACTORS OR OTHERS.

10. THE UNITED STATES GOVERNMENT WILL INCUR NO TAX OR OTHER FINANCIAL LIABILITY FROM ANY ACTIVITIES WITHIN THE MANAGEMENT AREA.

11. THE UNITED STATES WILL CONTINUE TO CONTROL ACCESS TO AND USAGE OF THE WATERS ADJACENT TO, OR IN THE VICINITY OF, THE MANAGEMENT AREA, AS THOSE WATERS ARE DELIMITED IN THE EXCHANGE OF NOTES SIGNED AUGUST 13 AND OCTOBER 23, 1947,
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AS CORRECTED TO SHOW PRESENT PHYSICAL CONDITIONS NOTED AND DELINEATED ON ANNEX "B", WITH THE MANAGEMENT AUTHORITY EXERCISING ONLY SUCH CONTROL OVER THOSE WATERS AS SHALL BE NECESSARY FOR THE SAFETY AND EFFICIENT OPERATION OF THE MANAGEMENT AREA, SUCH AS ANCHORAGES, MOORINGS AND MOVEMENT OF SHIPS SERVING THE MANAGEMENT AREA AND WATERBORNE CRAFT WITHIN ARGENTIA HARBOR.

12. SUBJECT TO PARAGRAPH 3 OF THIS ANNEX, THE PROVISIONS OF THE 1941 AGREEMENT SHALL NOT APPLY TO THE MANAGEMENT AREA WHILE HER MAJESTY'S SUBLEASE IS IN EXISTENCE; INSTEAD THE MANAGEMENT AREA SHALL BE CONSIDERED AS IF IT WAS NOT PART OF THE AREA LEASED TO THE UNITED STATES UNDER THE 1941 AGREEMENT.

13. ALL SUBLEASES, GRANTED BY HER MAJESTY OF THE WHOLE OR ANY PART OF THE MANAGEMENT AREA, SHALL CONTAIN A PROVISION TO THE EFFECT THAT THE SAME ARE ISSUED SUBJECT TO THE PROVISIONS OF THIS AGREEMENT, INCLUDING THE RIGHT OF REENTRY SET FORTH IN PARAGRAPH 1 OF THIS ANNEX.

14. THIS AGREEMENT AND THE SUBLEASE OF HER MAJESTY SHALL BE FREE FROM THE PAYMENT OF ALL RENT AND CHARGES OTHER THAN THE INDEMNIFICATION REQUIRED BY PARAGRAPH 9 OF THIS ANNEX.

15. SUBJECT TO THE PROVISIONS OF PARAGRAPH 1 OF THIS ANNEX, THE GOVERNMENT OF THE UNITED STATES COVENANTS WITH THE GOVERNMENT OF CANADA FOR THE QUIET ENJOYMENT OF THE MANAGEMENT AREA. UNQUOTE. VANCE

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